

Proposed Second Substitute HB 2793

By Rep. Kessler

Effect: The proposed substitute does the following:

- Restores current law regarding acknowledgments of paternity (a man claiming to be the genetic father may sign an acknowledgment) and restores gender-specific terms in sections relating to acknowledgments of paternity;
- Specifies that for a gestational surrogacy contract to be valid: (1) the woman acting as a gestational surrogate must not have previously acted as a surrogate for compensation more than once before; (2) the required medical insurance for her pregnancy may not be coverage financed through Medicaid or the Children's Health Insurance Program; and (3) the woman's evaluating physician must have determined that there is no known reason why she would not be capable of carrying a child to term without endangering her health or the health of the child;
- Provides that upon the filing of the attorneys' certifications under a gestational surrogacy contract, the court must issue an order stating, among other things, that the intended parents are the parents upon the birth of the child, and requires the attorneys to provide a copy of the court order to the Department of Health;
- Restores current law regarding the use of the "affidavit and physician's certification" to establish parentage for couples in which both partners are female and one contributed ovum and one gave birth to the child;
- Removes the provision that allowed an adjudication of parentage when a person required to be joined in the action could not be located after reasonable efforts.

1 AN ACT Relating to clarifying and expanding the rights and
2 obligations of state registered domestic partners and other couples
3 related to parentage; amending RCW 26.26.011, 26.26.021, 26.26.041,
4 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130,
5 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320,
6 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405,
7 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445,
8 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540,
9 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585,
10 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.700,
11 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730,
12 26.26.735, 26.26.740, 26.26.903, 26.26.911, and 9A.64.030; adding new
13 sections to chapter 26.26 RCW; creating new sections; and repealing RCW
14 26.26.210, 26.26.220, 26.26.230, 26.26.240, 26.26.250, and 26.26.260.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

16 **Sec. 1.** RCW 26.26.011 and 2002 c 302 s 102 are each amended to
17 read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

1 (1) "Acknowledged father" means a man who has established a father-
2 child relationship under RCW 26.26.300 through 26.26.375.

3 (2) "Adjudicated (~~(father)~~) parent" means a (~~(man)~~) person who has
4 been adjudicated by a court of competent jurisdiction to be the
5 (~~(father)~~) parent of a child.

6 (3) "Alleged (~~(father)~~) parent" means a (~~(man)~~) person who alleges
7 himself or herself to be, or is alleged to be, the genetic (~~(father)~~)
8 parent or a possible genetic (~~(father)~~) parent of a child, but whose
9 (~~(paternity)~~) parentage has not been determined. The term does not
10 include:

11 (a) A presumed (~~(father)~~) parent;

12 (b) A (~~(man)~~) person whose parental rights have been terminated or
13 declared not to exist; or

14 (c) A (~~(male)~~) donor.

15 (4) "Assisted reproduction" means a method of causing pregnancy
16 other than sexual intercourse. The term includes:

17 (a) (~~(Intrauterine)~~) Artificial insemination certified by a
18 physician;

19 (b) Donation of eggs;

20 (c) Donation of embryos;

21 (d) In vitro fertilization and transfer of embryos; and

22 (e) Intracytoplasmic sperm injection.

23 (5) "Child" means an individual of any age whose parentage may be
24 determined under this chapter.

25 (6) "Commence" means to file the petition seeking an adjudication
26 of parentage in a superior court of this state or to serve a summons
27 and the petition.

28 (7) "Compensation" means payment of any valuable consideration for
29 services in excess of reasonable medical, legal, and ancillary costs.

30 (8) "Determination of parentage" means the establishment of the
31 parent-child relationship by the signing of a valid acknowledgment of
32 paternity under RCW 26.26.300 through 26.26.375 or adjudication by the
33 court.

34 (~~(+8)~~) (9) "Domestic partner" means a state registered domestic
35 partner as defined in chapter 26.60 RCW.

36 (10) "Donor" means an individual who (~~(produces eggs or sperm~~
37 ~~used)) contributes a gamete or gametes for assisted reproduction,~~

1 whether or not for ~~((consideration))~~ compensation. The term does not
2 include:

3 (a) A ~~((husband))~~ person who provides ~~((sperm, or a wife who~~
4 ~~provides eggs,))~~ a gamete or gametes to be used for assisted
5 reproduction ~~((by the wife))~~ with his or her spouse or domestic
6 partner; or

7 (b) ~~((A woman who gives birth to a child by means of assisted~~
8 ~~reproduction, except as otherwise provided in RCW 26.26.210 through~~
9 ~~26.26.260 or 26.26.735.))~~ An intended parent under sections 54 through
10 65 of this act.

11 ~~((+9))~~ (11) "Ethnic or racial group" means, for purposes of
12 genetic testing, a recognized group that an individual identifies as
13 all or part of ~~((his or her))~~ the individual's ancestry or that is so
14 identified by other information.

15 ~~((+10))~~ (12) "Gamete" means either a sperm or an egg.

16 (13) "Genetic testing" means an analysis of genetic markers
17 ~~((only))~~ to exclude or identify a man as the father or a woman as the
18 mother of a child. The term includes an analysis of one or a
19 combination of the following:

20 (a) Deoxyribonucleic acid; and

21 (b) Blood-group antigens, red-cell antigens, human-leukocyte
22 antigens, serum enzymes, serum proteins, or red-cell enzymes.

23 ~~((+11))~~ (14) "Gestational surrogacy" means the process by which a
24 woman attempts to carry and give birth to a child created through in
25 vitro fertilization to which the woman acting as a gestational
26 surrogate has made no genetic contribution.

27 (15) "Gestational surrogacy contract" means a written agreement
28 regarding gestational surrogacy as provided under sections 53 through
29 64 of this act.

30 (16) "In vitro fertilization" means all medical and laboratory
31 procedures that are necessary to effectuate the extracorporeal
32 fertilization of egg and sperm.

33 (17) "Intended parent" means a person or persons who enters into a
34 gestational surrogacy contract with a woman acting as a gestational
35 surrogate pursuant to which he or she will be the legal parent upon the
36 birth of the resulting child. In the case of a married couple or a
37 couple in a domestic partnership, any reference to an intended parent

1 includes both spouses or both domestic partners for all purposes of
2 this chapter. This term includes the intended mother, intended father,
3 or both.

4 (18) "Man" means a male individual of any age.

5 ~~((+12))~~ (19) "Medical evaluation" means an evaluation and
6 consultation with a physician meeting the requirements of section 63 of
7 this act.

8 (20) "Mental health evaluation" means an evaluation and
9 consultation with a mental health professional meeting the requirements
10 of section 63 of this act.

11 (21) "Parent" means an individual who has established a parent-
12 child relationship under RCW 26.26.101.

13 ~~((+13))~~ (22) "Parent-child relationship" means the legal
14 relationship between a child and a parent of the child. The term
15 includes the mother-child relationship and the father-child
16 relationship.

17 ~~((+14) "Paternity"))~~ (23) "Parentage index" means the likelihood of
18 ~~((paternity))~~ parentage calculated by computing the ratio between:

19 (a) The likelihood that the tested ~~((man))~~ person is the ~~((father))~~
20 parent, based on the genetic markers of the tested ~~((man))~~ person,
21 ~~((mother))~~ genetic parent, and child, conditioned on the hypothesis
22 that the tested ~~((man))~~ person is the ~~((father))~~ parent of the child;
23 and

24 (b) The likelihood that the tested ~~((man))~~ person is not the
25 ~~((father))~~ parent, based on the genetic markers of the tested ~~((man))~~
26 person, ~~((mother))~~ genetic parent, and child, conditioned on the
27 hypothesis that the tested ~~((man))~~ person is not the ~~((father))~~ parent
28 of the child and that the ~~((father))~~ parent is ~~((from))~~ of the same
29 ethnic or racial group as the tested ~~((man))~~ person.

30 ~~((+15))~~ (24) "Physician" means a person licensed to practice
31 medicine in a state.

32 (25) "Presumed ~~((father))~~ parent" means a ~~((man))~~ person who, by
33 operation of law under RCW 26.26.116, is recognized ~~((to-be))~~ as the
34 ~~((father))~~ parent of a child until that status is rebutted or confirmed
35 in a judicial proceeding.

36 ~~((+16))~~ (26) "Probability of ~~((paternity))~~ parentage" means the
37 measure, for the ethnic or racial group to which the alleged ~~((father))~~
38 parent belongs, of the probability that the individual in question is

1 the (~~(father)~~) parent of the child, compared with a random, unrelated
2 (~~(man)~~) person of the same ethnic or racial group, expressed as a
3 percentage incorporating the (~~(paternity)~~) parentage index and a prior
4 probability.

5 (~~(+17)~~) (27) "Record" means information that is inscribed on a
6 tangible medium or that is stored in an electronic or other medium and
7 is retrievable in perceivable form.

8 (~~(+18)~~) (28) "Signatory" means an individual who authenticates a
9 record and is bound by its terms.

10 (~~(+19)~~) (29) "State" means a state of the United States, the
11 District of Columbia, Puerto Rico, the United States Virgin Islands,
12 any territory or insular possession subject to the jurisdiction of the
13 United States, or an Indian tribe or band, or Alaskan native village,
14 that is recognized by federal law or formally acknowledged by state
15 law.

16 (~~(+20)~~) (30) "Support enforcement agency" means a public official
17 or agency authorized to seek:

- 18 (a) Enforcement of support orders or laws relating to the duty of
- 19 support;
- 20 (b) Establishment or modification of child support;
- 21 (c) Determination of parentage; or
- 22 (d) Location of child support obligors and their income and assets.

23 (31) "Woman acting as a gestational surrogate" means a woman who
24 agrees to engage in a gestational surrogacy.

25 **Sec. 2.** RCW 26.26.021 and 2002 c 302 s 103 are each amended to
26 read as follows:

27 (1) This chapter (~~(governs every)~~) applies to determinations of
28 parentage in this state.

29 (2) The court shall apply the law of this state to adjudicate the
30 parent-child relationship. The applicable law does not depend on:

- 31 (a) The place of birth of the child; or
- 32 (b) The past or present residence of the child.

33 (3) This chapter does not create, enlarge, or diminish parental
34 rights or duties under other law of this state.

35 (4) If a birth results under a (~~(surrogate parentage)~~) gestational
36 surrogacy contract and the contract (~~(that)~~) is unenforceable under the

1 law of this state, the parent-child relationship is determined as
2 provided in RCW 26.26.101 through 26.26.116 or through applicable case
3 law.

4 **Sec. 3.** RCW 26.26.041 and 2002 c 302 s 105 are each amended to
5 read as follows:

6 Proceedings under this chapter are subject to other laws of this
7 state governing the health, safety, privacy, and liberty of a child or
8 other individuals (~~that~~) who could be jeopardized by disclosure of
9 identifying information, including the address, telephone number, place
10 of employment, social security number, and the child's day-care
11 facility and school.

12 **Sec. 4.** RCW 26.26.051 and 2002 c 302 s 106 are each amended to
13 read as follows:

14 (1) The provisions relating to determination of (~~paternity may be~~
15 applied) parentage apply to (~~a~~) determinations of maternity and
16 paternity.

17 (2) The provisions in this chapter apply to persons in a domestic
18 partnership to the same extent they apply to persons in a marriage, and
19 apply to persons of the same sex who have children together to the same
20 extent they apply to persons of the opposite sex who have children
21 together.

22 **Sec. 5.** RCW 26.26.101 and 2002 c 302 s 201 are each amended to
23 read as follows:

24 ~~((1))~~ The ~~((mother-child))~~ parent-child relationship is
25 established between a child and a man or woman by:

26 ~~((a))~~ (1) The woman's having given birth to the child, except as
27 otherwise provided in (~~RCW 26.26.210 through 26.26.260~~) sections 53
28 through 66 of this act;

29 ~~((b))~~ (2) An adjudication of the (~~woman's maternity~~) person's
30 parentage;

31 ~~((c))~~ (3) Adoption of the child by the (~~woman~~) person;

32 ~~((d))~~ ~~A valid surrogate parentage contract, under which the mother~~
33 ~~is an intended parent of the child, as provided in RCW 26.26.210~~
34 ~~through 26.26.260; or~~

1 ~~(e))~~ (4) An affidavit and physician's certificate in a form
2 prescribed by the department of health (~~wherein the donor of ovum or~~
3 ~~surrogate gestation carrier sets forth her intent to be legally bound~~
4 ~~as the parent of a child or children born through alternative~~
5 ~~reproductive medical technology by filing the affidavit and physician's~~
6 ~~certificate with the registrar of vital statistics within ten days~~
7 ~~after the date of the child's birth)) pursuant to RCW 26.26.735(~~-~~~~

8 ~~(2) The father-child relationship is established between a child~~
9 ~~and a man by:~~

10 ~~(a))~~);

11 (5) An adjudication confirming the person as a parent of a child
12 born pursuant to a gestational surrogacy contract if the contract was
13 validated under sections 53 through 64 of this act or is enforceable
14 under other law;

15 (6) An un rebutted presumption of the ((man's paternity)) person's
16 parentage of the child under RCW 26.26.116;

17 ~~((b))~~ (7) The man's having signed an acknowledgment of paternity
18 under RCW 26.26.300 through 26.26.375, unless the acknowledgment has
19 been rescinded or successfully challenged;

20 ~~((c) An adjudication of the man's paternity;~~

21 ~~(d) Adoption of the child by the man;~~

22 ~~(e))~~ or

23 (8) The ((man's)) person's having consented to assisted
24 reproduction by his ~~((wife))~~ or her spouse or domestic partner under
25 RCW 26.26.700 through 26.26.730 that resulted in the birth of the
26 child(~~(-or~~

27 ~~(f) A valid surrogate parentage contract, under which the father is~~
28 ~~an intended parent of the child, as provided in RCW 26.26.210 through~~
29 ~~26.26.260)).~~

30 **Sec. 6.** RCW 26.26.106 and 2002 c 302 s 202 are each amended to
31 read as follows:

32 A child born to parents who are not married to each other or in a
33 domestic partnership with each other has the same rights under the law
34 as a child born to parents who are married to each other or who are in
35 a domestic partnership with each other.

1 **Sec. 7.** RCW 26.26.111 and 2002 c 302 s 203 are each amended to
2 read as follows:

3 Unless parental rights are terminated, the parent-child
4 relationship established under this chapter applies for all purposes,
5 except as otherwise specifically provided by other law of this state.

6 **Sec. 8.** RCW 26.26.116 and 2002 c 302 s 204 are each amended to
7 read as follows:

8 (1) In the context of a marriage or a domestic partnership, a
9 ~~((man))~~ person is presumed to be the ~~((father))~~ parent of a child if:

10 (a) ~~((He))~~ The person and the mother or father of the child are
11 married to each other or in a domestic partnership with each other and
12 the child is born during the marriage or domestic partnership;

13 (b) ~~((He))~~ The person and the mother or father of the child were
14 married to each other or in a domestic partnership with each other and
15 the child is born within three hundred days after the marriage or
16 domestic partnership is terminated by death, annulment, dissolution
17 ~~((of marriage))~~, legal separation, or declaration of invalidity;

18 (c) Before the birth of the child, ~~((he))~~ the person and the mother
19 or father of the child married each other or entered into a domestic
20 partnership with each other in apparent compliance with law, even if
21 the attempted marriage or domestic partnership is, or could be,
22 declared invalid and the child is born during the invalid marriage or
23 invalid domestic partnership or within three hundred days after its
24 termination by death, annulment, dissolution ~~((of marriage))~~, legal
25 separation, or declaration of invalidity; or

26 (d) After the birth of the child, ~~((he))~~ the person and the mother
27 or father of the child have married each other or entered into a
28 domestic partnership with each other in apparent compliance with law,
29 whether or not the marriage or domestic partnership is, or could be
30 declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his~~
31 ~~paternity))~~ parentage of the child, and:

32 (i) The assertion is in a record filed with the state registrar of
33 vital statistics;

34 (ii) The person agreed to be and is named as the child's ~~((father))~~
35 parent on the child's birth certificate; or

36 (iii) The person promised in a record to support the child as his
37 or her own.

1 (2) A person is presumed to be the parent of a child if, for the
2 first two years of the child's life, the person resided in the same
3 household with the child and openly held out the child as his or her
4 own.

5 (3) A presumption of (~~(paternity)~~) parentage established under this
6 section may be rebutted only by an adjudication under RCW 26.26.500
7 through 26.26.630.

8 **Sec. 9.** RCW 26.26.130 and 2001 c 42 s 5 are each amended to read
9 as follows:

10 (1) The judgment and order of the court determining the existence
11 or nonexistence of the parent and child relationship shall be
12 determinative for all purposes.

13 (2) If the judgment and order of the court is at variance with the
14 child's birth certificate, the court shall order that an amended birth
15 certificate be issued.

16 (3) The judgment and order shall contain other appropriate
17 provisions directed to the appropriate parties to the proceeding,
18 concerning the duty of current and future support, the extent of any
19 liability for past support furnished to the child if that issue is
20 before the court, the furnishing of bond or other security for the
21 payment of the judgment, or any other matter in the best interest of
22 the child. The judgment and order may direct (~~(the father)~~) one parent
23 to pay the reasonable expenses of the mother's pregnancy and
24 (~~(confinement)~~) childbirth. The judgment and order may include a
25 continuing restraining order or injunction. In issuing the order, the
26 court shall consider the provisions of RCW 9.41.800.

27 (4) The judgment and order shall contain a provision that each
28 party must file with the court and the Washington state child support
29 registry and update as necessary the information required in the
30 confidential information form required by RCW 26.23.050.

31 (5) Support judgment and orders shall be for periodic payments
32 which may vary in amount. The court may limit the (~~(father's)~~)
33 parent's liability for the past support to the child to the proportion
34 of the expenses already incurred as the court deems just. The court
35 shall not limit or affect in any manner the right of nonparties
36 including the state of Washington to seek reimbursement for support and
37 other services previously furnished to the child.

1 (6) After considering all relevant factors, the court shall order
2 either or both parents to pay an amount determined pursuant to the
3 schedule and standards contained in chapter 26.19 RCW.

4 (7) On the same basis as provided in chapter 26.09 RCW, the court
5 shall make residential provisions with regard to minor children of the
6 parties, except that a parenting plan shall not be required unless
7 requested by a party. If a parenting plan or residential schedule was
8 not entered at the time the order establishing parentage was entered,
9 a parent may move the court for entry of a parenting plan or
10 residential schedule:

11 (a) By filing a motion and proposed parenting plan or residential
12 schedule and providing notice to the other parent and other persons who
13 have residential time with the child pursuant to a court order:
14 PROVIDED, That at the time of filing the motion less than twenty-four
15 months have passed since entry of the order establishing parentage and
16 that the proposed parenting plan or residential schedule does not
17 change the designation of the parent with whom the child spends the
18 majority of time. No filing fee shall be required for the filing of
19 this motion; or

20 (b) By filing a petition for modification of a parenting plan or
21 custody order pursuant to RCW 26.09.260.

22 (8) In any dispute between the ((~~natural parents~~)) persons claiming
23 parentage of a child and a person or persons who have (a) commenced
24 adoption proceedings or who have been granted an order of adoption, and
25 (b) pursuant to a court order, or placement by the department of social
26 and health services or by a licensed agency, have had actual custody of
27 the child for a period of one year or more before court action is
28 commenced by the ((~~natural parent or parents~~)) persons claiming
29 parentage, the court shall consider the best welfare and interests of
30 the child, including the child's need for situation stability, in
31 determining the matter of custody, and the parent or person who is more
32 fit shall have the superior right to custody.

33 (9) In entering an order under this chapter, the court may issue
34 any necessary continuing restraining orders, including the restraint
35 provisions of domestic violence protection orders under chapter 26.50
36 RCW or antiharassment protection orders under chapter 10.14 RCW.

37 (10) Restraining orders issued under this section restraining or
38 enjoining the person from molesting or disturbing another party, from

1 going onto the grounds of or entering the home, workplace, or school of
2 the other party or the day care or school of any child, or prohibiting
3 the person from knowingly coming within, or knowingly remaining within,
4 a specified distance of a location, shall prominently bear on the front
5 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
6 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
7 WILL SUBJECT A VIOLATOR TO ARREST.

8 (11) The court shall order that any restraining order bearing a
9 criminal offense legend, any domestic violence protection order, or any
10 antiharassment protection order granted under this section be forwarded
11 by the clerk of the court on or before the next judicial day to the
12 appropriate law enforcement agency specified in the order. Upon
13 receipt of the order, the law enforcement agency shall forthwith enter
14 the order into any computer-based criminal intelligence information
15 system available in this state used by law enforcement agencies to list
16 outstanding warrants. The order is fully enforceable in any county in
17 the state.

18 (12) If a restraining order issued pursuant to this section is
19 modified or terminated, the clerk of the court shall notify the law
20 enforcement agency specified in the order on or before the next
21 judicial day. Upon receipt of notice that an order has been
22 terminated, the law enforcement agency shall remove the order from any
23 computer-based criminal intelligence system.

24 **Sec. 10.** RCW 26.26.150 and 1994 c 230 s 16 are each amended to
25 read as follows:

26 (1) If existence of the ((~~father~~)) parent and child relationship is
27 declared, or paternity or a duty of support has been acknowledged or
28 adjudicated under this chapter or under prior law, the obligation of
29 the ((~~father~~)) parent may be enforced in the same or other proceedings
30 by the ((~~mother~~)) other parent, the child, the state of Washington, the
31 public authority that has furnished or may furnish the reasonable
32 expenses of pregnancy, ((~~confinement~~)) childbirth, education, support,
33 or funeral, or by any other person, including a private agency, to the
34 extent he or she has furnished or is furnishing these expenses.

35 (2) The court shall order support payments to be made to the
36 Washington state support registry, or the person entitled to receive

1 the payments under an alternate arrangement approved by the court as
2 provided in RCW 26.23.050(2).

3 (3) All remedies for the enforcement of judgments apply.

4 **Sec. 11.** RCW 26.26.300 and 2002 c 302 s 301 are each amended to
5 read as follows:

6 The mother of a child and a man claiming to be the genetic father
7 of the child (~~(conceived as the result of his sexual intercourse with~~
8 ~~the mother))~~) may sign an acknowledgment of paternity with intent to
9 establish the man's paternity.

10 **Sec. 12.** RCW 26.26.305 and 2002 c 302 s 302 are each amended to
11 read as follows:

12 (1) An acknowledgment of paternity must:

13 (a) Be in a record;

14 (b) Be signed under penalty of perjury by the mother and by the man
15 seeking to establish his paternity;

16 (c) State that the child whose paternity is being acknowledged:

17 (i) Does not have a presumed father, or has a presumed father whose
18 full name is stated; and

19 (ii) Does not have another acknowledged or adjudicated father;

20 (d) State whether there has been genetic testing and, if so, that
21 the acknowledging man's claim of paternity is consistent with the
22 results of the genetic testing; and

23 (e) State that the signatories understand that the acknowledgment
24 is the equivalent of a judicial adjudication of paternity of the child
25 and that a challenge to the acknowledgment is permitted only under
26 limited circumstances and is barred after two years.

27 (2) An acknowledgment of paternity is void if it:

28 (a) States that another man is a presumed father, unless a denial
29 of paternity signed by the presumed father is filed with the state
30 registrar of vital statistics;

31 (b) States that another man is an acknowledged or adjudicated
32 father; or

33 (c) Falsely denies the existence of a presumed, acknowledged, or
34 adjudicated father of the child.

35 (3) A presumed father may sign an acknowledgment of paternity.

1 **Sec. 13.** RCW 26.26.310 and 2002 c 302 s 303 are each amended to
2 read as follows:

3 A presumed father of a child may sign a denial of his paternity.
4 The denial is valid only if:

5 (1) An acknowledgment of paternity signed by another man is filed
6 under RCW 26.26.320;

7 (2) The denial is in a record, and is signed under penalty of
8 perjury; and

9 (3) The presumed father has not previously:

10 (a) Acknowledged his paternity, unless the previous acknowledgment
11 has been rescinded under RCW 26.26.330 or successfully challenged under
12 RCW 26.26.335; or

13 (b) Been adjudicated to be the father of the child.

14 **Sec. 14.** RCW 26.26.315 and 2002 c 302 s 304 are each amended to
15 read as follows:

16 (1) An acknowledgment of paternity and a denial of paternity may be
17 contained in a single document or may be signed in counterparts, and
18 may be filed separately or simultaneously. If the acknowledgment and
19 denial are both necessary, neither is valid until both are filed.

20 (2) An acknowledgment of paternity or a denial of paternity may be
21 signed before the birth of the child.

22 (3) Subject to subsection (1) of this section, an acknowledgment
23 and denial of paternity, if any, take effect on the birth of the child
24 or the filing of the document with the state registrar of vital
25 statistics, whichever occurs later.

26 (4) An acknowledgment or denial of paternity signed by a minor is
27 valid if it is otherwise in compliance with this chapter.

28 **Sec. 15.** RCW 26.26.320 and 2002 c 302 s 305 are each amended to
29 read as follows:

30 (1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
31 valid acknowledgment of paternity filed with the state registrar of
32 vital statistics is equivalent to an adjudication of ((paternity))
33 parentage of a child and confers upon the acknowledged father all of
34 the rights and duties of a parent.

35 (2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a
36 valid denial of paternity filed with the state registrar of vital

1 statistics in conjunction with a valid acknowledgment of paternity is
2 equivalent to an adjudication of the nonpaternity of the presumed
3 father and discharges the presumed father from all of the rights and
4 duties of a parent.

5 **Sec. 16.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to
6 read as follows:

7 (1) After the period for rescission under RCW 26.26.330 has
8 (~~elapsed~~) expired, a signatory of an acknowledgment or denial of
9 paternity may commence a proceeding to challenge the acknowledgment or
10 denial only:

- 11 (a) On the basis of fraud, duress, or material mistake of fact; and
12 (b) Within two years after the acknowledgment or denial is filed
13 with the state registrar of vital statistics.

14 (2) A party challenging an acknowledgment or denial of paternity
15 has the burden of proof.

16 **Sec. 17.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to
17 read as follows:

18 (1) Every signatory to an acknowledgment (~~of~~) of paternity and
19 any related denial of paternity must be made a party to a proceeding to
20 rescind or challenge the acknowledgment or denial.

21 (2) For the purpose of rescission of, or challenge to, an
22 acknowledgment or denial of paternity, a signatory submits to personal
23 jurisdiction of this state by signing the acknowledgment or denial,
24 effective upon the filing of the document with the state registrar of
25 vital statistics.

26 (3) Except for good cause shown, during the pendency of a
27 proceeding to rescind or challenge an acknowledgment or denial of
28 paternity, the court may not suspend the legal responsibilities of a
29 signatory arising from (~~an~~) the acknowledgment, including the duty to
30 pay child support.

31 (4) A proceeding to rescind or to challenge an acknowledgment or
32 denial of paternity must be conducted in the same manner as a
33 proceeding to adjudicate parentage under RCW 26.26.500 through
34 26.26.630.

35 (5) At the conclusion of a proceeding to rescind or challenge an

1 acknowledgment or denial of paternity, the court shall order the state
2 registrar of vital statistics to amend the birth record of the child,
3 if appropriate.

4 **Sec. 18.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to
5 read as follows:

6 The state registrar of vital statistics may release information
7 relating to the acknowledgment or denial of paternity(~~(, not expressly~~
8 ~~sealed under a court order,)) to: (1) A signatory of the~~
9 acknowledgment or denial (~~or their attorneys of record~~); (2) the
10 courts of this or any other state; (3) the agencies of this or any
11 other state operating a child support program under Title IV-D of the
12 social security act; (~~or~~) and (4) the agencies of this or any other
13 state involved in a dependency determination for a child named in the
14 acknowledgment or denial of paternity.

15 **Sec. 19.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to
16 read as follows:

17 (1) After the period for rescission of an acknowledgment of
18 paternity provided in RCW 26.26.330 has passed, a parent executing an
19 acknowledgment of paternity of the child named therein may commence a
20 judicial proceeding for:

21 (a) Making residential provisions or a parenting plan with regard
22 to the minor child on the same basis as provided in chapter 26.09 RCW;
23 or

24 (b) Establishing a child support obligation under chapter 26.19 RCW
25 and maintaining health insurance coverage under RCW 26.09.105.

26 (2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this
27 section shall be (~~entitled~~) titled "In re the parenting and support
28 of...."

29 (3) Before the period for a challenge to the acknowledgment or
30 denial of paternity has elapsed under RCW 26.26.335, the petitioner
31 must specifically allege under penalty of perjury, to the best of the
32 petitioner's knowledge, that: (a) No man other than the man who
33 executed the acknowledgment of paternity is the father of the child;
34 (b) there is not currently pending a proceeding to adjudicate the
35 parentage of the child or that another man is adjudicated the child's
36 father; and (c) the petitioner has provided notice of the proceeding to

1 any other men who have claimed parentage of the child. Should the
2 respondent or any other person appearing in the action deny the
3 allegations, a permanent parenting plan or residential schedule may not
4 be entered for the child without the matter being converted to a
5 proceeding to challenge the acknowledgment of paternity under RCW
6 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or
7 the birth certificate issued by the state in which the child was born
8 must be filed with the petition or response. The court may convert the
9 matter to a proceeding to challenge the acknowledgment on its own
10 motion.

11 **Sec. 20.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to
12 read as follows:

13 RCW 26.26.405 through 26.26.450 govern genetic testing of an
14 individual (~~(only)~~) to determine parentage, whether the individual:
15 (1) Voluntarily submits to testing; or
16 (2) Is tested pursuant to an order of the court or a support
17 enforcement agency.

18 **Sec. 21.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to
19 read as follows:

20 (1) Except as otherwise provided in this section and RCW 26.26.410
21 through 26.26.630, the court shall order the child and other designated
22 individuals to submit to genetic testing if the request for testing is
23 supported by the sworn statement of a party to the proceeding:

24 (a) Alleging paternity and stating facts establishing a reasonable
25 probability of the requisite sexual contact between the individuals; or
26 (b) Denying paternity and stating facts establishing a possibility
27 that sexual contact between the individuals, if any, did not result in
28 the conception of the child.

29 (2) A support enforcement agency may order genetic testing only if
30 there is no presumed(~~(, acknowledged,)~~) or adjudicated (~~(father)~~)
31 parent and no acknowledged father.

32 (3) If a request for genetic testing of a child is made before
33 birth, the court or support enforcement agency may not order in utero
34 testing.

35 (4) If two or more (~~(men)~~) persons are subject to court-ordered

1 genetic testing, the testing may be ordered concurrently or
2 sequentially.

3 (5) This section does not apply when the child was conceived
4 through assisted reproduction.

5 **Sec. 22.** RCW 26.26.410 and 2002 c 302 s 403 are each amended to
6 read as follows:

7 (1) Genetic testing must be of a type reasonably relied upon by
8 experts in the field of genetic testing and performed in a testing
9 laboratory accredited by:

10 (a) The American association of blood banks, or a successor to its
11 functions;

12 (b) The American society for histocompatibility and immunogenetics,
13 or a successor to its functions; or

14 (c) An accrediting body designated by the United States secretary
15 of health and human services.

16 (2) A specimen used in genetic testing may consist of one or more
17 samples or a combination of samples of blood, buccal cells, bone, hair,
18 or other body tissue or fluid. The specimen used in the testing need
19 not be of the same kind for each individual undergoing genetic testing.

20 (3) Based on the ethnic or racial group of an individual, the
21 testing laboratory shall determine the databases from which to select
22 frequencies for use in ~~((the))~~ calculation~~((s))~~ of the probability of
23 parentage. If there is disagreement as to the testing laboratory's
24 choice, the following rules apply:

25 (a) The individual objecting may require the testing laboratory,
26 within thirty days after receipt of the report of the test, to
27 recalculate the probability of ~~((paternity))~~ parentage using an ethnic
28 or racial group different from that used by the laboratory.

29 (b) The individual objecting to the testing laboratory's initial
30 choice shall:

31 (i) If the frequencies are not available to the testing laboratory
32 for the ethnic or racial group requested, provide the requested
33 frequencies compiled in a manner recognized by accrediting bodies; or

34 (ii) Engage another testing laboratory to perform the calculations.

35 (c) The testing laboratory may use its own statistical estimate if
36 there is a question regarding which ethnic or racial group is

1 appropriate. If available, the testing laboratory shall calculate the
2 frequencies using statistics for any other ethnic or racial group
3 requested.

4 (4) If, after recalculation using a different ethnic or racial
5 group, genetic testing does not rebuttably identify a ~~((man))~~ person as
6 the ~~((father))~~ parent of a child under RCW 26.26.420, an individual who
7 has been tested may be required to submit to additional genetic
8 testing.

9 **Sec. 23.** RCW 26.26.420 and 2002 c 302 s 405 are each amended to
10 read as follows:

11 (1) Under this chapter, a ~~((man))~~ person is rebuttably identified
12 as the ~~((father))~~ parent of a child if the genetic testing complies
13 with this section and RCW 26.26.400 through 26.26.415 and 26.26.425
14 through 26.26.450 and the results disclose that:

15 (a) The ~~((man))~~ person has at least a ninety-nine percent
16 probability of ~~((paternity))~~ parentage, using a prior probability of
17 0.50, as calculated by using the combined ~~((paternity))~~ parentage index
18 obtained in the testing; and

19 (b) A combined ~~((paternity))~~ parentage index of at least one
20 hundred to one.

21 (2) A ~~((man))~~ person identified under subsection (1) of this
22 section as the ~~((father))~~ parent of the child may rebut the genetic
23 testing results only by other genetic testing satisfying the
24 requirements of this section and RCW 26.26.400 through 26.26.415 and
25 26.26.425 through 26.26.450 which:

26 (a) Excludes the ~~((man))~~ person as a genetic ~~((father))~~ parent of
27 the child; or

28 (b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of
29 the child.

30 (3) Except as otherwise provided in RCW 26.26.445, if more than one
31 man is identified by genetic testing as the possible father of the
32 child, or more than one woman is identified by genetic testing as the
33 possible mother of the child, the court shall order them to submit to
34 further genetic testing to identify the genetic ~~((father))~~ parent.

35 (4) This section does not apply when the child was conceived
36 through assisted reproduction.

1 **Sec. 24.** RCW 26.26.425 and 2002 c 302 s 406 are each amended to
2 read as follows:

3 (1) Subject to assessment of costs under RCW 26.26.500 through
4 26.26.630, the cost of initial genetic testing must be advanced:

5 (a) By a support enforcement agency in a proceeding in which the
6 support enforcement agency is providing services;

7 (b) By the individual who made the request;

8 (c) As agreed by the parties; or

9 (d) As ordered by the court.

10 (2) In cases in which the cost is advanced by the support
11 enforcement agency, the agency may seek reimbursement from a ((~~man~~))
12 person who is rebuttably identified as the ((~~father~~)) parent.

13 **Sec. 25.** RCW 26.26.430 and 2002 c 302 s 407 are each amended to
14 read as follows:

15 (1) The court or the support enforcement agency shall order
16 additional genetic testing upon the request of a party who contests the
17 result of the original testing. If the previous genetic testing
18 identified a ((~~man~~)) person as the ((~~father~~)) parent of the child under
19 RCW 26.26.420, the court or agency may not order additional testing
20 unless the party provides advance payment for the testing.

21 (2) This section does not apply when the child was conceived
22 through assisted reproduction.

23 **Sec. 26.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to
24 read as follows:

25 (1) If a genetic testing specimen is not available from a man who
26 may be the father of a child, for good cause and under circumstances
27 the court considers to be just, a court may order the following
28 individuals to submit specimens for genetic testing:

29 (a) The parents of the man;

30 (b) Brothers and sisters of the man;

31 (c) Other children of the man and their mothers; and

32 (d) Other relatives of the man necessary to complete genetic
33 testing.

34 (2) If a specimen from the mother of a child is not available for
35 genetic testing, the court may order genetic testing to proceed without
36 a specimen from the mother.

1 (3) Issuance of an order under this section requires a finding that
2 a need for genetic testing outweighs the legitimate interests of the
3 individual sought to be tested.

4 (4) This section does not apply when the child was conceived
5 through assisted reproduction.

6 **Sec. 27.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to
7 read as follows:

8 (1) The court may order genetic testing of a brother of a man
9 identified as the father of a child if the man is commonly believed to
10 have an identical brother and evidence suggests that the brother may be
11 the genetic father of the child.

12 (2) If (~~genetic testing excludes none of the brothers as the~~
13 ~~genetic father, and~~) each brother satisfies the requirements as the
14 identified father of the child under RCW 26.26.420 without
15 consideration of another identical brother being identified as the
16 father of the child, the court may rely on nongenetic evidence to
17 adjudicate which brother is the father of the child.

18 **Sec. 28.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to
19 read as follows:

20 Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and
21 26.26.540, a proceeding to adjudicate parentage may be maintained by:

22 (1) The child;

23 (2) The (~~mother of~~) person who has established a parent-child
24 relationship with the child;

25 (3) A (~~man~~) person whose (~~paternity~~) parentage of the child is
26 to be adjudicated;

27 (4) The division of child support;

28 (5) An authorized adoption agency or licensed child-placing agency;

29 (6) A representative authorized by law to act for an individual who
30 would otherwise be entitled to maintain a proceeding but who is
31 deceased, incapacitated, or a minor; or

32 (7) An intended parent under a (~~surrogate parentage contract, as~~
33 ~~provided in RCW 26.26.210 through 26.26.260~~) gestational surrogacy
34 contract provided in sections 53 through 66 of this act.

1 **Sec. 29.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to
2 read as follows:

3 The following individuals must be joined as parties in a proceeding
4 to adjudicate parentage:

5 (1) The ~~((mother))~~ parent of the child who has established a
6 parent-child relationship with the child;

7 (2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is
8 to be adjudicated; and

9 (3) An intended parent under a ~~((surrogate parentage contract, as~~
10 ~~provided in RCW 26.26.210 through 26.26.260))~~ gestational surrogacy
11 contract as provided in sections 53 through 66 of this act.

12 **Sec. 30.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to
13 read as follows:

14 A proceeding to adjudicate the parentage of a child having no
15 presumed~~((, acknowledged,))~~ or adjudicated ~~((father))~~ second parent and
16 no acknowledged father may be commenced at any time during the life of
17 the child, even after:

18 (1) The child becomes an adult, but only if the child initiates the
19 proceeding; or

20 (2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has
21 been dismissed based on the application of a statute of limitation then
22 in effect.

23 **Sec. 31.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to
24 read as follows:

25 (1) Except as otherwise provided in subsection (2) of this section,
26 a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~
27 person with a parent-child relationship with the child, or another
28 individual to adjudicate the parentage of a child having a presumed
29 ~~((father))~~ parent must be commenced not later than two years after the
30 birth of the child.

31 (2) A proceeding seeking to disprove the ~~((father-child))~~ parent-
32 child relationship between a child and the child's presumed ~~((father))~~
33 parent may be maintained at any time if the court determines that~~((+~~

34 ~~(+))~~ the presumed ((father)) parent and the ~~((mother-of))~~ person
35 who has a parent-child relationship with the child neither cohabited

1 nor engaged in sexual intercourse with each other during the probable
2 time of conception(~~(; and~~
3 ~~(b) The presumed father never openly treated the child as his own)~~)
4 and the presumed parent never held out the child as his or her own.

5 **Sec. 32.** RCW 26.26.535 and 2002 c 302 s 508 are each amended to
6 read as follows:

7 (1) In a proceeding to adjudicate parentage under circumstances
8 described in RCW 26.26.530, a court may deny a motion seeking an order
9 for genetic testing of the mother or father, the child, and the
10 presumed father if the court determines that:

- 11 (a)(i) The conduct of the mother or father or the presumed
12 ((father)) parent estops that party from denying parentage; and
- 13 ((b)) (ii) It would be inequitable to disprove the ((father-
14 child)) parent-child relationship between the child and the presumed
15 ((father)) parent; or
- 16 (b) The child was conceived through assisted reproduction.

17 (2) In determining whether to deny a motion to seek an order for
18 genetic testing under subsection (1)(a) of this section, the court
19 shall consider the best interest of the child, including the following
20 factors:

- 21 (a) The length of time between the proceeding to adjudicate
22 parentage and the time that the presumed ((father)) parent was placed
23 on notice that he or she might not be the genetic ((father)) parent;
- 24 (b) The length of time during which the presumed ((father)) parent
25 has assumed the role of ((father)) parent of the child;
- 26 (c) The facts surrounding the presumed ((father's)) parent's
27 discovery of his or her possible ((nonpaternity)) nonparentage;
- 28 (d) The nature of the ((father-child)) relationship between the
29 child and the presumed parent;
- 30 (e) The age of the child;
- 31 (f) The harm ((to the child which)) that may result to the child if
32 presumed ((paternity)) parentage is successfully disproved;
- 33 (g) The nature of the relationship ((of)) between the child ((to))
34 and any alleged ((father)) parent;
- 35 (h) The extent to which the passage of time reduces the chances of
36 establishing the ((paternity)) parentage of another ((man)) person and
37 a child support obligation in favor of the child; and

1 (i) Other factors that may affect the equities arising from the
2 disruption of the ((father-child)) parent-child relationship between
3 the child and the presumed ((father)) parent or the chance of other
4 harm to the child.

5 (3) In a proceeding involving the application of this section,
6 ((the)) a minor or incapacitated child must be represented by a
7 guardian ad litem.

8 (4) A denial of a motion seeking an order for genetic testing under
9 subsection (1)(a) of this section must be based on clear and convincing
10 evidence.

11 (5) If the court denies a motion seeking an order for genetic
12 testing under subsection (1)(a) of this section, it shall issue an
13 order adjudicating the presumed ((father)) parent to be the ((father))
14 parent of the child.

15 **Sec. 33.** RCW 26.26.540 and 2002 c 302 s 509 are each amended to
16 read as follows:

17 (1) If a child has an acknowledged father, a signatory to the
18 acknowledgment or denial of paternity must commence any proceeding
19 seeking to rescind the acknowledgment or denial or challenge the
20 paternity of ((that)) the child only within the time allowed under RCW
21 26.26.330 or 26.26.335.

22 (2) If a child has an acknowledged father or an adjudicated
23 ((father)) parent, an individual, other than the child, who is neither
24 a signatory to the acknowledgment nor a party to the adjudication and
25 who seeks an adjudication of ((paternity)) parentage of the child must
26 commence a proceeding not later than two years after the effective date
27 of the acknowledgment or adjudication.

28 (3) A proceeding under this section is subject to the application
29 of the principles of estoppel established in RCW 26.26.535.

30 **Sec. 34.** RCW 26.26.545 and 2002 c 302 s 510 are each amended to
31 read as follows:

32 (1) Except as otherwise provided in subsection (2) of this section,
33 a proceeding to adjudicate parentage may be joined with a proceeding
34 for: Adoption or termination of parental rights under chapter 26.33
35 RCW; determination of a parenting plan, child support, annulment,
36 dissolution of marriage, dissolution of a domestic partnership, or

1 legal separation under chapter 26.09 or 26.19 RCW; or probate or
2 administration of an estate under chapter 11.48 or 11.54 RCW, or other
3 appropriate proceeding.

4 (2) A respondent may not join ~~((the))~~ a proceeding~~((s))~~ described
5 in subsection (1) of this section with a proceeding to adjudicate
6 parentage brought under chapter 26.21A RCW.

7 **Sec. 35.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to
8 read as follows:

9 ~~((Although))~~ Except as otherwise provided in section 58 of this
10 act, a proceeding to ~~((determine))~~ adjudicate parentage may be
11 commenced before the birth of the child, ~~((the proceeding))~~ but may not
12 be concluded until after the birth of the child. The following actions
13 may be taken before the birth of the child:

- 14 (1) Service of process;
- 15 (2) Discovery;
- 16 (3) Except as prohibited by RCW 26.26.405, collection of specimens
17 for genetic testing; and
- 18 (4) Temporary orders authorized under RCW 26.26.590.

19 **Sec. 36.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to
20 read as follows:

21 (1) A minor child is a permissible party, but is not a necessary
22 party to a proceeding under RCW 26.26.500 through 26.26.630.

23 (2) If ~~((the))~~ a minor or incapacitated child is a party, or if the
24 court finds that the interests of ~~((a minor child or incapacitated))~~
25 the child are not adequately represented, the court shall appoint a
26 guardian ad litem to represent the child, subject to RCW 74.20.310
27 ~~((neither the child's mother or father)).~~ A parent of the child may
28 not represent the child as guardian or ~~((otherwise))~~ in any other
29 capacity.

30 **Sec. 37.** RCW 26.26.570 and 2002 c 302 s 521 are each amended to
31 read as follows:

32 (1) Except as otherwise provided in subsection (3) of this section,
33 a record of a genetic testing expert is admissible as evidence of the
34 truth of the facts asserted in the report unless a party objects to its

1 admission within fourteen days after its receipt by the objecting party
2 and cites specific grounds for exclusion. The admissibility of the
3 report is not affected by whether the testing was performed:

4 (a) Voluntarily or under an order of the court or a support
5 enforcement agency; or

6 (b) Before or after the commencement of the proceeding.

7 (2) A party objecting to the results of genetic testing may call
8 one or more genetic testing experts to testify in person or by
9 telephone, videoconference, deposition, or another method approved by
10 the court. Unless otherwise ordered by the court, the party offering
11 the testimony bears the expense for the expert testifying.

12 (3) If a child has a presumed(~~(, acknowledged,)~~) or adjudicated
13 (~~(father)~~) parent or an acknowledged father, the results of genetic
14 testing are inadmissible to adjudicate parentage unless performed:

15 (a) With the consent of both the (~~(mother)~~) person with a parent-
16 child relationship with the child and the presumed(~~(, acknowledged,)~~)
17 or adjudicated (~~(father)~~) parent or an acknowledged father; or

18 (b) Under an order of the court under RCW 26.26.405.

19 (4) Copies of bills for genetic testing and for prenatal and
20 postnatal health care for the mother and child that are furnished to
21 the adverse party not less than ten days before the date of a hearing
22 are admissible to establish:

23 (a) The amount of the charges billed; and

24 (b) That the charges were reasonable, necessary, and customary.

25 **Sec. 38.** RCW 26.26.575 and 2002 c 302 s 522 are each amended to
26 read as follows:

27 (1) An order for genetic testing is enforceable by contempt.

28 (2) If an individual whose paternity is being determined declines
29 to submit to genetic testing (~~(as)~~) ordered by the court, the court for
30 that reason may (~~(on that basis)~~) adjudicate parentage contrary to the
31 position of that individual.

32 (3) Genetic testing of the mother of a child is not a condition
33 precedent to testing the child and a man whose paternity is being
34 determined. If the mother is unavailable or declines to submit to
35 genetic testing, the court may order the testing of the child and every
36 man whose paternity is being adjudicated.

1 (4) This section does not apply when the child was conceived
2 through assisted reproduction.

3 **Sec. 39.** RCW 26.26.585 and 2002 c 302 s 523 are each amended to
4 read as follows:

5 (1) A respondent in a proceeding to adjudicate parentage may admit
6 to the paternity of a child by filing a pleading to that effect or by
7 admitting paternity under penalty of perjury when making an appearance
8 or during a hearing.

9 (2) If the court finds that the admission of paternity (~~was made~~
10 ~~under~~) satisfies the requirements of this section and finds that there
11 is no reason to question the admission, the court shall issue an order
12 adjudicating the child to be the child of the man admitting paternity.

13 **Sec. 40.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to
14 read as follows:

15 This section applies to any proceeding under RCW 26.26.500 through
16 26.26.630.

17 (1) The court shall issue a temporary order for support of a child
18 if the individual ordered to pay support:

19 (a) Is a presumed (~~father~~) parent of the child;

20 (b) Is petitioning to have his (~~paternity~~) or her parentage
21 adjudicated or has admitted (~~paternity~~) parentage in pleadings filed
22 with the court;

23 (c) Is identified as the father through genetic testing under RCW
24 26.26.420;

25 (d) Has declined to submit to genetic testing but is shown by clear
26 and convincing evidence to be the father of the child; or

27 (e) Is (~~the mother of~~) a person who has established a parent-
28 child relationship with the child.

29 (2) A temporary order may, on the same basis as provided in chapter
30 26.09 RCW, make residential provisions with regard to minor children of
31 the parties, except that a parenting plan is not required unless
32 requested by a parent.

33 (3) Any party may request the court to issue a temporary
34 restraining order or preliminary injunction, providing relief proper in
35 the circumstances, and restraining or enjoining any party from:

36 (a) Molesting or disturbing the peace of another party;

1 (b) Going onto the grounds of or entering the home, workplace, or
2 school of another party or the day care or school of any child;

3 (c) Knowingly coming within, or knowingly remaining within, a
4 specified distance from a specified location; and

5 (d) Removing a child from the jurisdiction of the court.

6 (4) Either party may request a domestic violence protection order
7 under chapter 26.50 RCW or an antiharassment protection order under
8 chapter 10.14 RCW on a temporary basis. The court may grant any of the
9 relief provided in RCW 26.50.060 except relief pertaining to
10 residential provisions for the children which provisions shall be
11 provided for under this chapter, and any of the relief provided in RCW
12 10.14.080. Ex parte orders issued under this subsection shall be
13 effective for a fixed period not to exceed fourteen days, or upon court
14 order, not to exceed twenty-four days if necessary to ensure that all
15 temporary motions in the case can be heard at the same time.

16 (5) Restraining orders issued under this section restraining or
17 enjoining the person from molesting or disturbing another party, or
18 from going onto the grounds of or entering the home, workplace, or
19 school of the other party or the day care or school of any child, or
20 prohibiting the person from knowingly coming within, or knowingly
21 remaining within, a specified distance of a location, shall prominently
22 bear on the front page of the order the legend: VIOLATION OF THIS
23 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
24 CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

25 (6) The court shall order that any temporary restraining order
26 bearing a criminal offense legend, any domestic violence protection
27 order, or any antiharassment protection order granted under this
28 section be forwarded by the clerk of the court on or before the next
29 judicial day to the appropriate law enforcement agency specified in the
30 order. Upon receipt of the order, the law enforcement agency shall
31 enter the order into any computer-based criminal intelligence
32 information system available in this state used by law enforcement
33 agencies to list outstanding warrants. The order is fully enforceable
34 in any county in the state.

35 (7) If a restraining order issued pursuant to this section is
36 modified or terminated, the clerk of the court shall notify the law
37 enforcement agency specified in the order on or before the next

1 judicial day. Upon receipt of notice that an order has been
2 terminated, the law enforcement agency shall remove the order from any
3 computer-based criminal intelligence system.

4 (8) The court may issue a temporary restraining order without
5 requiring notice to the other party only if it finds on the basis of
6 the moving affidavit or other evidence that irreparable injury could
7 result if an order is not issued until the time for responding has
8 elapsed.

9 (9) The court may issue a temporary restraining order or
10 preliminary injunction and an order for temporary support in such
11 amounts and on such terms as are just and proper in the circumstances.
12 In issuing the order, the court shall consider the provisions of RCW
13 9.41.800.

14 (10) A temporary order, temporary restraining order, or preliminary
15 injunction:

16 (a) Does not prejudice the rights of a party or any child which are
17 to be adjudicated at subsequent hearings in the proceeding;

18 (b) May be revoked or modified;

19 (c) Terminates when the final order is entered or when the petition
20 is dismissed; and

21 (d) May be entered in a proceeding for the modification of an
22 existing order.

23 (11) A support debt owed to the state for public assistance
24 expenditures which has been charged against a party pursuant to RCW
25 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
26 extinguished by, the final decree or order, unless the office of
27 support enforcement has been given notice of the final proceeding and
28 an opportunity to present its claim for the support debt to the court
29 and has failed to file an affidavit as provided in this subsection.
30 Notice of the proceeding shall be served upon the office of support
31 enforcement personally, or by certified mail, and shall be given no
32 fewer than thirty days prior to the date of the final proceeding. An
33 original copy of the notice shall be filed with the court either before
34 service or within a reasonable time thereafter. The office of support
35 enforcement may present its claim, and thereby preserve the support
36 debt, by filing an affidavit setting forth the amount of the debt with
37 the court, and by mailing a copy of the affidavit to the parties or
38 their attorney prior to the date of the final proceeding.

1 **Sec. 41.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to
2 read as follows:

3 The court shall apply the following rules to adjudicate the
4 ~~((paternity))~~ parentage of a child:

5 (1) Except as provided in subsection (5) of this section, the
6 ~~((paternity))~~ parentage of a child having a presumed~~((, acknowledged,))~~
7 or adjudicated ~~((father))~~ parent or an acknowledged father may be
8 disproved only by admissible results of genetic testing excluding that
9 ~~((man))~~ person as the ~~((father))~~ parent of the child or identifying
10 another man ~~((to be))~~ as the father of the child.

11 (2) Unless the results of genetic testing are admitted to rebut
12 other results of genetic testing, the man identified as the father of
13 the child under RCW 26.26.420 must be adjudicated the father of the
14 child.

15 (3) If the court finds that genetic testing under RCW 26.26.420
16 neither identifies nor excludes a man as the father of a child, the
17 court may not dismiss the proceeding. In that event, the results of
18 genetic testing, ~~((along with))~~ and other evidence, are admissible to
19 adjudicate the issue of paternity.

20 (4) Unless the results of genetic testing are admitted to rebut
21 other results of genetic testing, a man excluded as the father of a
22 child by genetic testing must be adjudicated not to be the father of
23 the child.

24 (5) Subsections (1) through (4) of this section do not apply when
25 the child was conceived through assisted reproduction. The parentage
26 of a child conceived through assisted reproduction may be disproved
27 only by admissible evidence showing the intent of the presumed,
28 acknowledged, or adjudicated parent and the other parent.

29 **Sec. 42.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to
30 read as follows:

31 The court may issue an order dismissing a proceeding commenced
32 under this chapter for want of prosecution only without prejudice. An
33 order of dismissal for want of prosecution purportedly with prejudice
34 is void and ~~((may be challenged in another judicial or an~~
35 ~~administrative proceeding))~~ has only the effect of a dismissal without
36 prejudice.

1 **Sec. 43.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to
2 read as follows:

3 (1) The court shall issue an order adjudicating whether a ((~~man~~))
4 person alleged or claiming to be the ((~~father~~)) parent is the parent of
5 the child.

6 (2) An order adjudicating parentage must identify the child by name
7 and age.

8 (3) Except as otherwise provided in subsection (4) of this section,
9 the court may assess filing fees, reasonable attorneys' fees, fees for
10 genetic testing, other costs, and necessary travel and other reasonable
11 expenses incurred in a proceeding under this section and RCW 26.26.500
12 through 26.26.620 and 26.26.630. The court may award attorneys' fees,
13 which may be paid directly to the attorney, who may enforce the order
14 in the attorney's own name.

15 (4) The court may not assess fees, costs, or expenses against the
16 support enforcement agency of this state or another state, except as
17 provided by other law.

18 (5) On request of a party and for good cause shown, the court may
19 order that the name of the child be changed.

20 (6) If the order of the court is at variance with the child's birth
21 certificate, the court shall order the state registrar of vital
22 statistics to issue an amended birth certificate.

23 **Sec. 44.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to
24 read as follows:

25 (1) Except as otherwise provided in subsection (2) of this section,
26 a determination of parentage is binding on:

27 (a) All signatories to an acknowledgment or denial of paternity as
28 provided in RCW 26.26.300 through 26.26.375; and

29 (b) All parties to an adjudication by a court acting under
30 circumstances that satisfy the jurisdictional requirements of RCW
31 ((~~26.21.075~~)) 26.21A.100.

32 (2) A child is not bound by a determination of parentage under this
33 chapter unless:

34 (a) The determination was based on an unrescinded acknowledgment of
35 paternity and the acknowledgment of paternity is consistent with the
36 results of the genetic testing;

1 (b) The adjudication of parentage was based on a finding consistent
2 with the results of genetic testing and the consistency is declared in
3 the determination or is otherwise shown, or in the case of a child
4 conceived through assisted reproduction, the adjudication of parentage
5 was based on evidence showing the intent of the parents; or

6 (c) The child was a party or was represented in the proceeding
7 determining parentage by a guardian ad litem.

8 (3) In a proceeding to dissolve a marriage or domestic partnership,
9 the court is deemed to have made an adjudication of the parentage of a
10 child if the court acts under circumstances that satisfy the
11 jurisdictional requirements of RCW ((~~26.21.075~~)) 26.21A.100, and the
12 final order:

13 (a) Expressly identifies a child as a "child of the marriage,"
14 "issue of the marriage," "child of the domestic partnership," "issue of
15 the domestic partnership," or similar words indicating that the
16 ((~~husband is the father~~)) spouses in the marriage or domestic partners
17 in the domestic partnership are the parents of the child; or

18 (b) Provides for support of the child by one or both of the
19 ((~~husband~~)) spouses or domestic partners unless ((~~paternity~~)) parentage
20 is specifically disclaimed in the order.

21 (4) Except as otherwise provided in subsection (2) of this section,
22 a determination of parentage may be a defense in a subsequent
23 proceeding seeking to adjudicate parentage by an individual who was not
24 a party to the earlier proceeding.

25 (5) A party to an adjudication of ((~~paternity~~)) parentage may
26 challenge the adjudication only under law of this state relating to
27 appeal, vacation of judgments, ((~~and~~)) or other judicial review.

28 **Sec. 45.** RCW 26.26.700 and 2002 c 302 s 601 are each amended to
29 read as follows:

30 RCW 26.26.705 through 26.26.740 do not apply to the birth of a
31 child conceived by means of sexual intercourse or as a result of
32 gestational surrogacy contract.

33 **Sec. 46.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to
34 read as follows:

35 A donor is not a parent of a child conceived by means of assisted

1 reproduction, unless otherwise agreed in a signed record by the donor
2 and the person or persons intending to be parents of the child
3 conceived through assisted reproduction.

4 **Sec. 47.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to
5 read as follows:

6 ~~((If a husband provides sperm for, or consents to, assisted~~
7 ~~reproduction by his wife as provided in RCW 26.26.715, he is the father~~
8 ~~of a resulting child born to his wife.)) A person who provides gametes
9 for, or consents in a signed record to assisted reproduction with
10 another person, with the intent to be the parent of the child born, is
11 the parent of the resulting child.~~

12 **Sec. 48.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to
13 read as follows:

14 (1) ~~((A consent to assisted reproduction by a married woman must be~~
15 ~~in a record signed by the woman and her husband.)) Consent by a couple
16 who intend to be parents of a child conceived by assisted reproduction
17 must be in a record signed by both persons. This requirement does not
18 apply to ~~((the donation of eggs for assisted reproduction by another~~
19 ~~woman)) a donor.~~~~

20 (2) Failure of the ~~((husband))~~ person to sign a consent required by
21 subsection (1) of this section, before or after birth of the child,
22 does not preclude a finding ~~((that the husband is the father of a child~~
23 ~~born to his wife if the wife and husband openly treated)) of parentage
24 if the persons resided together in the same household with the child
25 and openly held out the child as their own.~~

26 **Sec. 49.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to
27 read as follows:

28 (1) Except as otherwise provided in subsection (2) of this section,
29 ~~((the husband of a wife))~~ a spouse or domestic partner of a woman who
30 gives birth to a child by means of assisted reproduction, or a spouse
31 or domestic partner of a man who has a child by means of assisted
32 reproduction, may not challenge his ~~((paternity))~~ or her parentage of
33 the child unless:

34 (a) Within two years after learning of the birth of the child

1 ((he)) the person commences a proceeding to adjudicate his
2 ((paternity)) or her parentage; and

3 (b) The court finds that ((he)) the person did not consent to the
4 assisted reproduction, before or after birth of the child.

5 (2) A proceeding to adjudicate ((paternity)) parentage may be
6 maintained at any time if the court determines that:

7 (a) The ((husband)) spouse or domestic partner did not provide
8 ((sperm)) gametes for, or before or after the birth of the child
9 consent to, assisted reproduction by his ((wife)) or her spouse or
10 domestic partner;

11 (b) The ((husband and the mother)) spouse or domestic partner and
12 the parent of the child have not cohabited since the probable time of
13 assisted reproduction; and

14 (c) The ((husband)) spouse or domestic partner never openly
15 ((treated)) held out the child as his or her own.

16 (3) The limitation provided in this section applies to a marriage
17 or domestic partnership declared invalid after assisted reproduction.

18 **Sec. 50.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to
19 read as follows:

20 (1) If a marriage or domestic partnership is dissolved before
21 placement of eggs, sperm, or an embryo, the former spouse or former
22 domestic partner is not a parent of the resulting child unless the
23 former spouse or former domestic partner consented in a signed record
24 that if assisted reproduction were to occur after a ((divorce))
25 dissolution, the former spouse or former domestic partner would be a
26 parent of the child.

27 (2) The consent of the former spouse or former domestic partner to
28 assisted reproduction may be ((revoked)) withdrawn by that individual
29 in a record at any time before placement of eggs, sperm, or embryos.
30 An individual who withdraws consent under this section is not a parent
31 of the resulting child.

32 **Sec. 51.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to
33 read as follows:

34 If ((a spouse)) an individual who consented in a record to be a
35 parent by assisted reproduction dies before placement of eggs, sperm,
36 or an embryo, the deceased ((spouse)) individual is not a parent of the

1 resulting child unless the deceased ((spouse)) individual consented in
2 a signed record that if assisted reproduction were to occur after
3 death, the deceased ((spouse)) individual would be a parent of the
4 child.

5 **Sec. 52.** RCW 26.26.735 and 2002 c 302 s 608 are each amended to
6 read as follows:

7 ~~((The donor of ovum provided to a licensed physician for use in the
8 alternative reproductive medical technology process of attempting to
9 achieve a pregnancy in a woman other than the donor is treated in law
10 as if she were not the natural mother of a child thereafter conceived
11 and born unless the donor and the woman who gives birth to a child as
12 a result of the alternative reproductive medical technology procedures
13 agree in writing that the donor is to be a parent. RCW 26.26.705 does
14 not apply in such case. A woman who gives birth to a child conceived
15 through alternative reproductive medical technology procedures under
16 the supervision and with the assistance of a licensed physician is
17 treated in law as if she were the natural mother of the child unless an
18 agreement in writing signed by an ovum donor and the woman giving birth
19 to the child states otherwise. An agreement pursuant to this section
20 must be in writing and signed by the ovum donor and the woman who gives
21 birth to the child and any other intended parent of the child. The
22 physician shall certify the parties' signatures and the date of the
23 ovum harvest, identify the subsequent medical procedures undertaken,
24 and identify the intended parents.)) (1) An affidavit and physician's
25 certificate may be used by intended parents to establish parentage if:~~

- 26 (a) The two intended parents are both female intending to be the
- 27 parents of the child born through assisted reproduction;
- 28 (b) One of the intended parents contributed ovum; and
- 29 (c) One of the intended parents gives birth to the child.

30 (2) The ((agreement, including the)) affidavit and certification
31 ((referenced in RCW 26.26.030,)) must be filed with the registrar of
32 vital statistics, where it must be kept confidential and in a sealed
33 file.

34 NEW SECTION. **Sec. 53.** The purpose of sections 54 through 66 of
35 this act is to establish consistent standards and procedural safeguards
36 for the protection of all parties involved in a gestational surrogacy

1 contract in this state and to confirm the legal status of children born
2 as a result of these contracts. These standards and safeguards are
3 meant to facilitate the use of this type of reproductive contract in
4 accord with the public policy of this state.

5 NEW SECTION. **Sec. 54.** (1) Except as provided in this chapter, the
6 woman who gives birth to a child is presumed to be the mother of that
7 child for purposes of state law.

8 (2) In the case of a gestational surrogacy contract satisfying the
9 requirements set forth in section 56 of this act:

10 (a) The intended parent or parents is the parent or are parents of
11 the child for purposes of state law immediately upon the birth of the
12 child;

13 (b) The child is considered the child of the intended parent or
14 parents for purposes of state law immediately upon the birth of the
15 child; and

16 (c) Neither the woman acting as a gestational surrogate nor her
17 spouse or domestic partner, if any, are the parents of the child for
18 purposes of state law immediately upon the birth of the child.

19 (3) The parties to a gestational surrogacy contract shall assume
20 the rights and obligations of subsection (2) of this section if:

21 (a) The woman acting as a gestational surrogate satisfies the
22 eligibility requirements set forth in section 55(1) of this act;

23 (b) The intended parent or parents satisfy the eligibility
24 requirements set forth in section 55(2) of this act; and

25 (c) The birth as a result of gestational surrogacy occurs pursuant
26 to a gestational surrogacy contract meeting the requirements set forth
27 in section 56 of this act.

28 (4) In the case of a gestational surrogacy contract meeting the
29 requirements set forth in section 56 of this act, the intended parents
30 are the parents of the child for purposes of state law unless otherwise
31 determined by a court of competent jurisdiction, even in the event of
32 a laboratory error in which the resulting child is not genetically
33 related to either of the intended parents.

34 NEW SECTION. **Sec. 55.** (1) A woman acting as a gestational
35 surrogate is deemed to have satisfied the requirements of this chapter

1 if she has met the following requirements at the time the gestational
2 surrogacy contract is executed:

3 (a) She is at least twenty-one years of age;

4 (b) She has given birth to at least one child;

5 (c) She has not previously acted as a gestational surrogate for
6 compensation more than once;

7 (d) She has completed a medical evaluation and the evaluating
8 physician has determined that there is no known reason why she would
9 not be capable of carrying a child to term without endangering her
10 health or the health of the child;

11 (e) She has indicated in a writing her informed consent to the
12 medical procedures associated with the establishment of a pregnancy
13 through embryo transfer, after being informed by a licensed physician
14 of the risks of the procedures, including the risks that attend
15 implantation of more than one embryo, and the information received was
16 in accord with the provision of information recommended by the society
17 for assisted reproductive technology, the American college of
18 obstetricians and gynecologists, or the American society of
19 reproductive medicine or their successor organizations;

20 (f) She has completed a mental health evaluation by a mental health
21 provider licensed under chapter 18.71, 18.79, 18.83, or 18.225 RCW;

22 (g) She has undergone legal consultation with independent legal
23 counsel regarding the terms of the gestational surrogacy contract and
24 the potential legal consequences of the gestational surrogacy; and

25 (h) She has obtained a health insurance policy that covers major
26 medical treatments and hospitalization and the health insurance policy
27 has a term that extends throughout the duration of the expected
28 pregnancy and for eight weeks after the birth of the child. The policy
29 may be procured by the intended parents on behalf of the woman acting
30 as a gestational surrogate pursuant to the gestational surrogacy
31 contract. The health insurance coverage may not be financed through
32 Medicaid, under Title XIX of the federal social security act, or the
33 children's health insurance program under Title XXI of the federal
34 social security act.

35 (2) The intended parent or parents are deemed to have satisfied the
36 requirements of this chapter if he, she, or they have met the following
37 requirements at the time the gestational surrogacy contract is
38 executed:

1 (a) He, she, or they have a medical need for the gestational
2 surrogacy as evidenced by a qualified physician's affidavit attached to
3 the gestational surrogacy contract. If both intended parents are the
4 same sex as each other, this subsection (2)(a) is satisfied and an
5 affidavit from a qualified physician is not required;

6 (b) He, she, or they have completed a mental health evaluation by
7 a mental health provider licensed under chapter 18.71, 18.79, 18.83, or
8 18.225 RCW; and

9 (c) He, she, or they have undergone legal consultation with
10 independent legal counsel regarding the terms of the gestational
11 surrogacy contract and the potential legal consequences of the
12 gestational surrogacy.

13 NEW SECTION. **Sec. 56.** (1) A gestational surrogacy contract is
14 presumed enforceable for purposes of state law only if:

15 (a) It meets the contractual requirements set forth in subsection
16 (2) of this section; and

17 (b) It contains at a minimum each of the terms set forth in
18 subsection (3) of this section.

19 (2) A gestational surrogacy contract must meet the following
20 requirements:

21 (a) It must be in writing;

22 (b) It must be executed prior to the commencement of any medical
23 procedures, other than medical or mental health evaluations necessary
24 to determine eligibility of the parties pursuant to section 55 of this
25 act, in furtherance of the gestational surrogacy:

26 (i) By the woman acting as a gestational surrogate meeting the
27 eligibility requirements of section 55(1) of this act and, if married
28 or in a domestic partnership, the spouse or domestic partner of the
29 woman acting as a gestational surrogate; and

30 (ii) By the intended parent or parents meeting the eligibility
31 requirements of section 55(2) of this act. In the event an intended
32 parent is married or in a domestic partnership, both spouses or both
33 domestic partners must execute the gestational surrogacy contract;

34 (c) Both the woman acting as a gestational surrogate and the
35 intended parent or parents must have been represented by separate
36 counsel in all matters concerning the gestational surrogacy and the
37 gestational surrogacy contract;

1 (d) Both the woman acting as a gestational surrogate and the
2 intended parent or parents must have signed a written acknowledgment
3 that he or she received information about the legal, financial, and
4 contractual rights, expectations, penalties, and obligations of the
5 gestational surrogacy contract;

6 (e) If the gestational surrogacy contract provides for the payment
7 of compensation to the woman acting as a gestational surrogate, the
8 compensation must have been placed in escrow with an independent escrow
9 agent prior to the commencement of any medical procedure, other than
10 medical or mental health evaluations necessary to determine the
11 eligibility of a woman to act as a gestational surrogate pursuant to
12 section 55(1) of this act; and

13 (f) It must be witnessed by two competent adults.

14 (3) A gestational surrogacy contract must provide for:

15 (a) The express written agreement of the woman acting as a
16 gestational surrogate to:

17 (i) Undergo embryo transfer and attempt to carry and give birth to
18 the child, and that she has given her informed consent to the procedure
19 as provided in section 55(1)(e) of this act; and

20 (ii) Surrender the child to the intended parent or parents
21 immediately upon the birth of the child;

22 (b) If the woman acting as a gestational surrogate is married or in
23 a domestic partnership, the express agreement of her spouse or her
24 domestic partner to:

25 (i) Undertake the obligations imposed on the woman acting as a
26 gestational surrogate pursuant to the terms of the gestational
27 surrogacy contract;

28 (ii) Surrender the child to the intended parent or parents
29 immediately upon the birth of the child;

30 (c) The right of the woman acting as a gestational surrogate to
31 utilize the services of a physician of her choosing to provide her care
32 during the pregnancy; and

33 (d) The express written agreement of the intended parent or parents
34 to:

35 (i) Receive the child immediately upon his or her birth; and

36 (ii) Assume sole responsibility for the support of the child
37 immediately upon his or her birth.

1 (4) A gestational surrogacy contract is presumed enforceable for
2 purposes of state law even though it contains one or more of the
3 following provisions:

4 (a) The agreement of the intended parent or parents to pay the
5 woman acting as a gestational surrogate reasonable compensation; and

6 (b) The agreement of the intended parent or parents to pay for or
7 reimburse the woman acting as a gestational surrogate for reasonable
8 expenses, including, without limitation, medical, legal, or other
9 professional expenses, related to the gestational surrogacy and the
10 gestational surrogacy contract.

11 (5) In the event that any of the requirements of this section are
12 not met, a court of competent jurisdiction shall determine parentage
13 based on evidence of the parties' intent.

14 (6) Nothing in this chapter may be construed to limit or constrain
15 the right of a woman acting as a gestational surrogate to make all
16 health and welfare decisions regarding herself and her pregnancy,
17 including the right whether or not to terminate the pregnancy as
18 protected by law. Gestational surrogacy contract provisions, if any,
19 that conflict with the aforementioned rights are severable from the
20 remainder of the contract and are unenforceable.

21 NEW SECTION. **Sec. 57.** (1) Any person who is considered to be the
22 parent of a child pursuant to section 56 of this act is obligated to
23 support the child.

24 (2) The breach of the gestational surrogacy contract by the
25 intended parent or parents may not relieve such intended parent or
26 parents of the support obligations imposed by state law.

27 (3) A gamete donor may be liable for child support only if he or
28 she fails to enter into a legal agreement in which either: (a) The
29 intended parent or parents agree to assume all rights and
30 responsibilities for any resulting child; or (b) the gamete donor
31 relinquishes his or her rights to any gametes, resulting embryos, or
32 children.

33 NEW SECTION. **Sec. 58.** (1) A parent-child relationship is
34 established effective immediately upon the birth of a child born
35 pursuant to a gestational surrogacy contract if, in addition to
36 satisfying the provisions of the gestational surrogacy laws in this

1 chapter, the attorneys representing both the woman acting as a
2 gestational surrogate and the intended parent or parents certify that
3 the parties entered into a gestational surrogacy contract intended to
4 satisfy the requirements of section 56 of this act with respect to the
5 child.

6 (2) The attorneys' certifications required by subsection (1) of
7 this section must be filed with the superior court of the county in
8 which the intended parents reside and may be filed either before or
9 after the birth of the child.

10 (3) Upon the filing of the attorneys' certifications, the court
11 shall issue an order stating, at a minimum, the following:

12 (a) The full name, date, and state or country of birth of the
13 intended parent or parents;

14 (b) The estimated delivery date of the child;

15 (c) The planned place of birth of the child;

16 (d) The full name of the woman acting as the gestational surrogate;

17 (e) That immediately upon the birth of the child, the intended
18 parents are the parents of the child for the purposes of state law and
19 shall be listed on the child's birth certificate as the parents;

20 (f) That immediately upon the birth of the child, neither the woman
21 acting as a gestational surrogate and her spouse or domestic partner,
22 if any, are the parents of the child for purposes of state law;

23 (g) That immediately upon the birth of the child, the woman acting
24 as a gestational surrogate and her spouse or domestic partner, if any,
25 shall surrender the child to the intended parents; and

26 (h) That immediately upon the birth of the child, the intended
27 parents shall assume sole responsibility for the support of the child.

28 (4) The attorneys shall provide the department of health with the
29 full name of the child and a certified copy of the court order. The
30 order shall be placed in a sealed file and may not be open to
31 inspection by any person except upon order of the court for good cause
32 shown.

33 (5) All court records related to the gestational surrogacy contract
34 must be sealed and may not be thereafter open to inspection by any
35 person except upon order of the court for good cause shown.

36 NEW SECTION. **Sec. 59.** Except as provided in this chapter, a

1 person is not civilly or criminally liable for nonnegligent actions
2 taken pursuant to the requirements of sections 53 through 64 of this
3 act.

4 NEW SECTION. **Sec. 60.** Noncompliance by the woman acting as a
5 gestational surrogate or the intended parent or parents occurs when
6 that party breaches a legally enforceable provision of the gestational
7 surrogacy contract.

8 NEW SECTION. **Sec. 61.** (1) Except as otherwise provided in this
9 chapter, in the event of noncompliance with the requirements of section
10 54(3) of this act, a court of competent jurisdiction shall determine
11 the respective rights and obligations of the parties.

12 (2) There is no specific performance remedy available for a breach
13 of a gestational surrogacy contract term by the woman acting as a
14 gestational surrogate that requires the woman to be impregnated.

15 NEW SECTION. **Sec. 62.** (1) Except as expressly provided in the
16 gestational surrogacy contract or in section 61 of this act, the
17 intended parent or parents are entitled to all remedies available at
18 law or equity.

19 (2) Except as expressly provided in the gestational surrogacy
20 contract, the woman acting as a gestational surrogate is entitled to
21 all remedies available at law or equity.

22 NEW SECTION. **Sec. 63.** The department of health may adopt rules
23 pertaining to the required medical and mental health evaluations and
24 informed consent requirements for a gestational surrogacy contract.
25 Until the department adopts these rules, medical and mental health
26 evaluations and procedures and informed consent must be conducted in
27 accordance with the recommended guidelines published as of the
28 effective date of this act by the American society for reproductive
29 medicine, the society for assisted reproductive technologists, or the
30 American college of obstetricians and gynecologists. The rules may
31 adopt these guidelines or others by reference.

32 NEW SECTION. **Sec. 64.** No action to invalidate a gestational
33 surrogacy contract meeting the requirements of this chapter or to

1 challenge the rights of parentage established pursuant to section 54 of
2 this act may be commenced after twelve months from the date of birth of
3 the child.

4 NEW SECTION. **Sec. 65.** (1) Sections 1 through 51 of this act apply
5 to causes of action filed on or after the effective date of this act.

6 (2) This act applies to gestational surrogacy contracts entered
7 into on or after the effective date of this act.

8 **Sec. 66.** RCW 26.26.740 and 2002 c 302 s 609 are each amended to
9 read as follows:

10 The department of health shall, upon request, issue a birth
11 certificate for any child born as a result of an alternative
12 reproductive medical technology procedure or gestational surrogacy
13 contract indicating the legal parentage of such child as intended by
14 any agreement filed with the registrar of vital statistics pursuant to
15 ((RCW 26.26.735)) the parties' filed certification under section 58 of
16 this act.

17 **Sec. 67.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to
18 read as follows:

19 In applying and construing this uniform act, consideration must be
20 given to the need to promote uniformity of the law with respect to its
21 subject matter among states that enact it and to the intent that the
22 act apply to persons of the same sex who have children together to the
23 same extent the act applies to persons of the opposite sex who have
24 children together.

25 **Sec. 68.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to
26 read as follows:

27 This act may be known and cited as the uniform parentage act of
28 2002.

29 **Sec. 69.** RCW 9A.64.030 and 2003 c 53 s 81 are each amended to read
30 as follows:

31 (1) It is unlawful for any person to sell or purchase a minor
32 child.

- 1 (2) A transaction shall not be a purchase or sale under subsection
2 (1) of this section if any of the following exists:
3 (a) The transaction is between the parents of the minor child; or
4 (b) The transaction is between a person receiving or to receive the
5 child and an agency recognized under RCW 26.33.020; or
6 (c) The transaction is between the person receiving or to receive
7 the child and a state agency or other governmental agency; or
8 (d) The transaction is pursuant to chapter 26.34 or 26.26 RCW; or
9 (e) The transaction is pursuant to court order; or
10 (f) The only consideration paid by the person receiving or to
11 receive the child is intended to pay for the prenatal hospital or
12 medical expenses involved in the birth of the child, or attorneys' fees
13 and court costs involved in effectuating transfer of child custody.
14 (3)(a) Child selling is a class C felony.
15 (b) Child buying is a class C felony.

16 NEW SECTION. **Sec. 70.** Any action taken by an agency to implement
17 the provisions of this act must be accomplished within existing
18 resources.

19 NEW SECTION. **Sec. 71.** The following acts or parts of acts are
20 each repealed:

- 21 (1) RCW 26.26.210 (Surrogate parenting--Definitions) and 1989 c 404
22 s 1;
23 (2) RCW 26.26.220 (Surrogate parenting--Persons excluded from
24 contracting) and 1989 c 404 s 2;
25 (3) RCW 26.26.230 (Surrogate parenting--Compensation prohibited)
26 and 1989 c 404 s 3;
27 (4) RCW 26.26.240 (Surrogate parenting--Contract for compensation
28 void) and 1989 c 404 s 4;
29 (5) RCW 26.26.250 (Surrogate parenting--Provisions violated--
30 Penalty) and 1989 c 404 s 5; and
31 (6) RCW 26.26.260 (Surrogate parenting--Custody of child) and 1989
32 c 404 s 6.

33 NEW SECTION. **Sec. 72.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 73.** Sections 53 through 64 of this act are each
4 added to chapter 26.26 RCW.

--- END ---